

1 DENNIS J. HERRERA – 139669  
2 CITY ATTORNEY  
3 Robert S. Maerz – 111796  
4 Kathryn Luhe -- 116587  
5 Airport General Counsel  
6 San Francisco City Attorney's Office, Airport Division  
7 P.O. Box 8097  
8 International Terminal, North Shoulder Building, 5th Floor  
9 San Francisco, CA 94128-8097  
10 Telephone: (650) 821-5088/ Facsimile: (650) 821-5086  
11 e-mail: Kathryn.Luhe@sfgov.org

7 WULFSBERG REESE COLVIG & FIRSTMAN  
PROFESSIONAL CORPORATION

8 | H. James Wulfsberg – 046192

Timothy A. Colvig - 114723

9 | Kris A. Cox - 136504

Kaiser Center  
2025-1-1

10 | 300 Lakeside Drive, 24th Floor  
Saskatoon, SK S4S 1A2 306.242.4100

Oakland, CA 94612-3524  
(510) 825-8111

Telephone: (510) 835-9100

Facsimile: (310) 451-2170  
e-mail: KAC@wulfslaw.com

13 Attorneys for Plaintiff  
City and County of San Francisco

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

18 | CITY AND COUNTY OF SAN FRANCISCO,  
A California Municipal Corporation,

No. C 04-5307 PJH

Plaintiff.

**STIPULATION AND [PROPOSED]  
ORDER OF DISMISSAL OF ENTIRE  
ACTION WITH PREJUDICE**

VS.

21 FACTORY MUTUAL INSURANCE  
22 COMPANY, a Rhode Island Corporation,  
23 BOMBARDIER TRANSPORTATION  
(HOLDINGS) USA, INC., a Delaware  
Corporation,

## Defendants.

## AND RELATED COUNTERCLAIMS

1       The parties hereto, Plaintiff and Counter-Defendant City and County of San Francisco  
 2 ("CCSF"), Defendant and Counterclaimant Factory Mutual Insurance Company ("FMIC") and  
 3 Defendant and Counterclaimant Bombardier Transportation (Holdings) USA, Inc. ("Bombardier"),  
 4 by and through their respective counsel, hereby stipulate as follows:

5       Whereas, CCSF instituted the present action and thereafter filed a Second Amended  
 6 Complaint asserting claims against FMIC and Bombardier;

7       Whereas, Bombardier filed an amended answer and asserted cross and counter-claims  
 8 against CCSF;

9       Whereas, FMIC filed an answer and Amended Counter-Claims against CCSF and Cross-  
 10 Claims against Bombardier, which cross-claims were later dismissed by this Court;

11       Whereas, the parties hereto subsequently entered into a Settlement Agreement to fully and  
 12 finally resolve the present action and all claims therein (collectively referred to as the "Action");

13       NOW, THEREFORE, pursuant to the Settlement Agreement, the parties hereto hereby  
 14 stipulate and agree to:

15       1.       Entry of an Order of Dismissal of With Prejudice of this Action in its entirety,  
 16 including all claims, cross-claims and counterclaims asserted by any party, with each party to  
 17 bear its own fees and costs.

18       2.       This Stipulation is for the purpose of settling the Action. Neither the existence,  
 19 terms or act of entering into this Stipulation, nor any action taken hereunder, shall constitute, or  
 20 be construed as, any admission of the validity of any claim, defense, or any fact alleged in the  
 21 Action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of either  
 22 Bombardier or the City.

23       3. This Court shall retain jurisdiction over the parties for the purpose of enforcement of the  
 24 Settlement Agreement only,

25       6.       Kris A. Cox, counsel for CCSF, hereby attests that he has on file all holograph signatures  
 26 for any signatures indicated by a "conformed" signature (/s) within this e-filed document.

LAW OFFICES  
 WULFSBERG REESE COLVIG & FIRSTMAN  
 PROFESSIONAL CORPORATION  
 KAISER CENTER  
 300 LAKESIDE DRIVE, 24TH FLOOR  
 OAKLAND, CALIFORNIA 94612-3524  
 TELEPHONE (510) 835-9100

1 **SO STIPULATED:**

2 Dated: January 8, 2009

WULFSBERG REESE COLVIG & FIRSTMAN  
PROFESSIONAL CORPORATION

3 By: /S/  
4 Kris A. Cox  
5 Attorneys for Plaintiff, City and County of  
6 San Francisco

7 Dated: January 8, 2009

8 CARLSON, CALLADINE &  
9 PETERSON, LLP

10 By: /S/  
11 Joyce Wang  
12 Attorneys for Defendant Factory Mutual  
13 Insurance Company

14 Dated: January 8, 2009

15 SONNENSCHEIN NATH AND  
16 ROSENTHAL LLP

17 By: /S/  
18 Gayle M. Athanacio  
19 Attorneys for Defendant Bombardier  
20 Transportation (Holdings) USA, Inc.

21 **IT IS SO ORDERED.**

22 Dated: January 9, 2009

